

# **EDMONDS CITY COUNCIL APPROVED MINUTES**

## **July 26, 2011**

The Edmonds City Council meeting was called to order at 7:02 p.m. by Mayor Cooper in the Council Chambers, 250 5<sup>th</sup> Avenue North, Edmonds. The meeting was opened with the flag salute.

### **ELECTED OFFICIALS PRESENT**

Mike Cooper, Mayor  
Strom Peterson, Council President  
Steve Bernheim, Councilmember  
D. J. Wilson, Councilmember  
Michael Plunkett, Councilmember  
Lora Petso, Councilmember  
Adrienne Fraley-Monillas, Councilmember  
Diane Buckshnis, Councilmember

### **ALSO PRESENT**

Peter Gibson, Student Representative

### **STAFF PRESENT**

Stephen Clifton, Community Services/Economic Development Director  
Phil Williams, Public Works Director  
Debi Humann, Human Resources Director  
Jim Tarte, Interim Finance Director  
Rob Chave, Planning Manager  
Carl Nelson, CIO  
Frances Chapin, Cultural Services Manager  
Rich Lindsay, Park Maintenance Manager  
Jeff Taraday, City Attorney  
Sandy Chase, City Clerk  
Jana Spellman, Senior Executive Council Asst.  
Jeannie Dines, Recorder

### **1. APPROVAL OF AGENDA**

**COUNCIL PRESIDENT PETERSON MOVED, SECONDED BY COUNCILMEMBER FRALEY-MONILLAS, TO APPROVE THE AGENDA IN CONTENT AND ORDER. MOTION CARRIED UNANIMOUSLY.**

### **2. CONSENT AGENDA ITEMS**

Councilmember Bernheim requested Item B be removed from the Consent Agenda.

**COUNCIL PRESIDENT PETERSON MOVED, SECONDED BY COUNCILMEMBER FRALEY-MONILLAS, TO APPROVE THE CONSENT AGENDA. MOTION CARRIED UNANIMOUSLY.**  
**The agenda items approved are as follows:**

#### **A. ROLL CALL**

**C. APPROVAL OF CLAIM CHECKS #126709 THROUGH #126842 DATED JULY 21, 2011 FOR \$625,928.49. APPROVAL OF PAYROLL DIRECT DEPOSIT AND CHECKS #50599 THROUGH #50651 FOR THE PERIOD JULY 1, 2011 THROUGH JULY 15, 2011 IN THE AMOUNT OF \$666,623.49**

**D. ACKNOWLEDGE RECEIPT OF A CLAIM FOR DAMAGES SUBMITTED BY MARGARET SQUIRE (AMOUNT UNDETERMINED)**

**E. COMMUNITY SERVICES/ECONOMIC DEVELOPMENT DEPARTMENT QUARTERLY REPORT - JULY, 2011**

- F. **AUTHORIZATION TO ADVERTISE RFQ FOR ARTISTS TO CREATE INTERPRETIVE ELEMENTS FOR THE DOWNTOWN EDMONDS CULTURAL HERITAGE TOUR PROJECT**
- G. **APPOINTMENT OF MARLA MILLER TO THE EDMONDS PUBLIC FACILITIES DISTRICT BOARD.**

**ITEM B: APPROVAL OF CITY COUNCIL MEETING MINUTES OF JULY 19, 2011**

Councilmember Bernheim requested the following changes to the minutes:

- Page 17, last paragraph, delete the sentence, “He suggested including bike racks and an electric car plug.”
- Page 23, second paragraph from the bottom, change “admirably” to “adequately.”

**COUNCILMEMBER BERNHEIM MOVED, SECONDED BY COUNCILMEMBER PLUNKETT, TO APPROVE ITEM B AS AMENDED.**

Council President Peterson advised he would abstain from the vote as he was absent from the meeting.

Councilmember Wilson observed it was the Council’s normal process to refer the minutes to the Clerk for verification. Councilmember Bernheim responded he was trying to save the Clerk time. Councilmember Wilson recalled Councilmember Bernheim did say he wanted bike racks in the park but would not hold up his vote to get them. Councilmember Bernheim read the comments he made at the July 19 meeting from a transcript.

**MOTION CARRIED (5-1-1), COUNCILMEMBER WILSON VOTING NO AND COUNCIL PRESIDENT PETERSON ABSTAINING.**

**3. PUBLIC HEARING ON THE PLANNING BOARD RECOMMENDATION REGARDING POTENTIAL AMENDMENTS TO DOWNTOWN BD ZONES. THE AMENDMENTS FOCUS ON USES PERMITTED IN DESIGNATED STREET FRONTS IN BD ZONES, COMMERCIAL DEPTH REQUIREMENTS, REDUCING MANDATORY STEP-BACKS, AND PROVIDING FOR DEVELOPMENT AGREEMENTS TO ACHIEVE SPECIFIED CITY GOALS**

Planning Manager Rob Chave reviewed the Planning Board’s recommendations:

1. **Designated street front and commercial depth requirements.** The current commercial depth requirement is 30 feet in the BD1 downtown retail core and 60 feet elsewhere in the downtown zones. The Planning Board felt the existing commercial depth requirements were contrary to the City’s goals for the retail core and felt a consistent definition of designated street front and street depth was appropriate throughout the downtown area. The Planning Board recommended a consistent 45-foot depth. Staff’s walkthrough of commercial spaces downtown a few years ago found nearly all commercial spaces, in the BD1 zone in particular, were approximately 60 feet in depth. Existing uses will be allowed to continue, the amended depth will only apply to new development.
2. **Uses in the BD1 (Retail Core) zone.** There are currently no restrictions as long as the use is commercial. In the City’s economic development goals and the downtown Comprehensive Plan, pedestrian activity and retail activity in particular is a core goal for the downtown BD1 area. The Planning Board recommended not allowing offices or professional offices within the 45-foot designated street front in the BD1 zone. Uses within the first 45 feet uses must be retail or service-related businesses. The Planning Board felt offices and professional offices do not rely on walk-in customers and some offices in the BD1 close off their visible windows to the public via

blinds, etc. Mr. Chave reminded the BD1 zone is a very small area, the two blocks radiating out from the center fountain. Retail and service oriented business would be allowed to locate within the first 45 feet; any commercial use including offices can locate behind the first 45 feet or in the upper story.

3. **Step-back requirements.** There is currently no step-back requirement in the BD1 zone. The other downtown BD1 zones require a 15-foot step-back above 25 feet. The Planning Board felt building design could be addressed by the existing design guidance that refers to presence of building on the street, differentiating lower portions from upper portions. Historic buildings downtown such as Beeson Building or Chanterelles derive their character not from a step-back but decoration, ornamentation, etc. which the Planning Board felt provided more building design enhancement than a step-back.
4. **Development Agreements.** Developers would be allowed to build according to normal development pattern in accordance with the current zoning or could propose a development agreement. Development agreements have a thorough public hearing process at both the Planning Board and the City Council and the final decision is made by the City Council. Under the Planning Board's recommendation, development agreements would achieve certain specified goals. A developer would need to achieve two of the following three goals:
  - 1) Attain at least a LEED Gold or equivalent level of green building certification
  - 2) The development incorporates one or more uses designed to further the city's economic development goals (such as a hotel, post office, farmers market, or space for artists)
  - 3) The development includes enhanced public space and amenities.

Mr. Chave explained the goal of tonight's hearing was to identify what the Council wants to include in an updated code. The language could be amended such as strengthening or providing further clarity on some of the development agreement criteria. A number of the code provisions were adopted in 2006, about the time of the economic downturn. Therefore, the City has virtually no experience with the code provisions. The Planning Board, Economic Development Commission (EDC) and staff feel a down economy is an appropriate time to make improvements to the code where appropriate.

The EDC had a lengthy discussion regarding development agreements as they relate to the City's economic development goals. The EDC discussed and endorsed the Planning Board's recommendations at their recent meeting. The EDC expressed interest in further defining service uses, which service uses were appropriate in a retail core.

Councilmember Bernheim asked whether there was any sense of urgency or request that the City Council make a decision tonight following the public hearing rather than listening to points of view and making a decision in the next weeks or months before the end of the year. Mr. Chave answered it is a legislative matter so there is no particular deadline. The Planning Board and EDC felt these were important issues and hoped the Council would address them as quickly as possible. Councilmember Bernheim asked whether there was a need for the Council to make a decision tonight. Mr. Chave answered the public testimony may indicate a need that he is not aware of; there is no specific deadline.

Councilmember Petso referred to minutes in the Council packet that indicate the CS/DS Committee wanted to refer the environmental sustainability considerations to the Mayor's Climate Protection Committee and asked whether that had been done. Mr. Chave answered that is a separate issue, including broader incentives in the codes. The environmental aspect tonight is only related to development agreements.

Councilmember Petso asked whether there had been discussion regarding something other than LEED for the environmental incentive. Mr. Chave answered the Planning Board's discussion primarily focused on LEED although they did discuss other standards. The problem is there are few other good environmental

standards; LEED is the best established standard at this time. The words “or equivalent” were included because other standards or ways of measuring environmental benefits may develop over time such as the Master Builders green building initiatives. If a developer could show their proposal had equivalent environmental benefits, it would be acceptable. He summarized it was not expected that a developer would complete the LEED certification process.

Councilmember Fraley-Monillas asked what type of businesses would be prohibited in the BD1 zone. Mr. Chave answered general office such as a corporate or business office or a professional office such as a doctor’s office would not be allowed in the designated street front. Both could occur behind the designated street front, in the story above or in one of the surrounding commercial zones. Conversely any retail or service use would be allowed.

Councilmember Buckshnis thanked staff, the EDC and the Planning Board for their work. As Council liaison to the EDC, she is aware of the discussions that occurred at their meeting and the Planning Board minutes demonstrate a very thoughtful process. She referred to page 9 of the Planning Board June 8 minutes, where Board Member Cloutier moved that the motion be amended to delete the words “or three stories, whichever is greater” from Item B.1. The motion was seconded by Board Member Johnson. The minutes do not reflect a vote on the amendment. Mr. Chave recalled it was approved.

Councilmember Plunkett observed the proposed development agreement would increase height to 35 feet. In Mr. Spee’s case, per the Planning Board minutes, he is planning that some portion of his lot will have a 4-story building. Councilmember Plunkett asked whether removing 35 feet from the development agreement and retaining the height in the existing code would eviscerate the value of the development agreement. He asked whether development agreements were predicated on an increase in height up to 35 feet and in some cases, depending on the lot, up to 4 stories. Mr. Chave answered the language in the development agreement states the development standards in general can be varied. The language regarding 35 feet is a limitation. Even if a developer wants to vary other regulations in the code, the height cannot exceed 35 feet. If the Council did not want to allow height above the existing feet, the language would need to be changed to not more than 30 feet. Whether it eviscerated the value of a development agreement was in the eyes of the beholder.

Councilmember Plunkett asked whether there was value in a development agreement if the Council did not approve allowing an increase in height. Mr. Chave answered there could still be some value because other regulations could be altered via a development agreement. Some of the discussion by the EDC and Planning Board was regarding uses that they wanted to occur downtown such as a boutique hotel. Companies who develop that use considered the City’s zoning and indicated it would not be feasible under the existing 30-foot height limit and would require a few additional feet in height. The discussion by the Planning Board and EDC specifically referenced that input. Depending on the situation, particularly where a higher building would not impact the existing street scape and the use would potentially be a huge economic benefit particularly for tourism, the Planning Board and EDC felt strongly the opportunity for increased height was appropriate. Councilmember Plunkett pointed out the Council had been told previously that a certain building could not be built but it was later constructed when required to build to code.

Councilmember Buckshnis asked whether a development agreement could be used with a variance. Mr. Chave answered the City’s variance criteria are very tight and absent something unique to the site, the variance criteria could not be satisfied. For example, he could not imagine a circumstance where additional height would be granted via a variance for a boutique hotel. Councilmember Buckshnis pointed out the land slopes. Mr. Chave explained there are slopes throughout the downtown and it would be difficult to argue that because a particular property slopes, granting additional height would be so unique

that another site should not also receive a variance for slope. He summarized granting a variance on one site opened up to variances all over the City.

Councilmember Petso referred to the identifying street fronts (page 111 of the packet) where there is one parcel on 2<sup>nd</sup> Avenue extending north from Main Street that has the blue line designating the street front on only a portion of the parcel. Mr. Chave explained when the lines were drawn, consideration was given to commercial streets and the designated street front were identified in areas where there are commercial uses on both sides or there is a long history of commercial use in the vicinity. The EDC and ultimately Planning Board may reconsider the area south of 5<sup>th</sup> beyond Howell Way. In the core area the intent was to avoid extending the designated street front along areas where there are significant residential uses or wrapping around corners where there is commercial only on one side.

Councilmember Petso asked when this particular property at the corner of 2<sup>nd</sup> and Main develops, will it be required to have a designated street front all the way along 2<sup>nd</sup>, part of the way along 2<sup>nd</sup> or none of the way on 2<sup>nd</sup>. Mr. Chave advised in areas where there is not a designated street front, the requirement for a 45 foot depth does not apply and any of the uses allowed by the zone would be permitted.

Councilmember Petso observed this was supposed to be legislative but the discussion appears to relate strongly to a particular project that has yet to be submitted. City Attorney Jeff Taraday explained this discussion is in regard to all the BD zones and the map on page 111 encompasses several blocks. To the extent any particular lot was discussed in the context of a hypothetical development, he supposed that could assist the Council in understanding the effect of the proposed changes as long as it was understood any discussion regarding a site specific application of the proposal was purely hypothetical. There is no quasi judicial land use application before the Council tonight.

On a property where hypothetically the blue line stopped in the middle of a parcel, Councilmember Petso asked whether the parcel has a designated street front or only has a designated street front as far as the blue line extends. Mr. Chave answered the designated street front only extends as far as the blue line. If it splits a parcel, only the portion of the parcel where the blue line is has a designated street front. The designated street fronts are tied to street sections rather than property lines.

Councilmember Plunkett advised he heard a conversation that led him to believe this development agreement was pretty much centered around one potential developer. He was at a Historic Preservation Commission meeting when a representative for the developer of the post office made comments, believing he was speaking to the Planning Board. The representative stated all he needed to do was get the Council to change the code and they could construct a nice building with a number of nice attributes. Councilmember Plunkett asked if this matter was still legislative when he heard something like that because he assumed this particular developer would ultimately submit an application. Mr. Taraday answered this is a legislative matter and while there may be developers/property owners in the community who lobby the City Council to adopt/not adopt the proposed amendments, they are free to do so in the context of approaching their elected officials about a legislative matter. Access to Councilmembers will change as soon as a development application is submitted; to his knowledge there is no application on file yet, therefore, the Council is truly in the legislative realm. Councilmember Plunkett clarified a developer could lobby a Councilmember as much as they wanted even if they would profit from the change. Mr. Taraday answered absolutely.

Student Representative Gibson asked whether it would be fairer to everyone else if the blue line extended through the entire property rather than stopping halfway through the property. Mr. Chave answered the concept behind the designated street front is to identify portions of downtown where there is the strongest commercial activity. There are certain main pedestrian arterials, along Main, down 5<sup>th</sup>, and somewhat on Dayton, that tend to be the main corridors. However, outside those main corridors, the question arises if

commercial is required, how far off the corridor commercial will it be viable. Especially in areas where one side of the street is residential, requiring commercial on the opposite side lessens its viability. When people walk down a commercial street, they like to see activity on both sides. He summarized determining how far the requirement for commercial activity should extend is a judgment call, the reason this is a legislative matter.

Councilmember Fraley-Monillas asked who designated the street fronts. Mr. Chave answered the concept was first raised when the BD zones were adopted in 2006 and established only for the BD1 zone. The Planning Board ultimately recommended expanding that concept to the other BD zones.

Councilmember Fraley-Monillas pointed out the designated street front on 4<sup>th</sup> Avenue extends to Daley Street although it is residential past Bell Street, yet on 2<sup>nd</sup> Avenue it is cut off a block short of James and mid-block south of Bell. Mr. Chave answered beyond Dayton there is a consistent block on the south side of 4<sup>th</sup> versus 3<sup>rd</sup> where there is only one large building on the east side and only a small corner on the west side. He reiterated it is a judgment call; the Council could revise the locations of the designated street fronts.

Councilmember Wilson inquired about the definition of service uses. Mr. Chave acknowledged there was no definition for service uses. The EDC and Planning Board felt it worthwhile to forward the proposed amendments to the Council but want to review and further define services uses to determine whether some are more retail oriented.

Councilmember Bernheim asked whether it was true that the height in the BD1 zone is 25 feet with a minimum 12-foot first floor ceiling height but the building height can be 30 feet if the developer includes a 15-foot first floor ceiling height. Mr. Chave answered there must be a 15-foot first floor ceiling height and the maximum height is 30 feet. Councilmember Bernheim clarified in the BD1 zone a 15-foot first floor ceiling was required. Mr. Chave agreed.

Mayor Cooper opened the public participation portion of the public hearing.

**Karen Wiggins, Edmonds**, owner of a commercial building and former contractor, commented all the BD1 zone changes are beneficial. She expressed concern with the development agreement, opining that development agreements were legislated to avoid cities being accused of spot zoning. In this case the development agreement is for a specific building and lists the things that a property owner wants to do with the building. The development agreement also allows a building to extend above the height limit. She recalled the City's Comprehensive Plan refers to 3-story buildings, not 4 stories. She concluded a development agreement was a fancy way to get around spot zoning.

**Doug Spee, Edmonds**, a property owner in the downtown BD2 zone, acknowledged his interest may be more personal than other speakers. He expressed support for the proposed amendment with regard to the designated street front; extending the designated street front down Main Street to ensure a consistent look down Main and up the side streets that cross Main but still allow flexibility on the outer portions of the zoning that in some cases face a mixed residential zone. In his experience, renting commercial space on the edges of the commercial zone is virtually impossible; he has had a vacancy for four years. With regard to step-backs, he commented removing the step-back provision is long overdue. Although passage of that change five years ago was intended to reduce the perceived size of a new building as viewed from the street or sidewalk, it eliminates any possible duplication of layout for residential levels of a small mixed use building and it is architecturally unattractive unless above a fourth floor or higher. The code has adequate provisions without the step-back requirement to ensure esthetically pleasing and appropriate development downtown.

With regard to development agreements, Mr. Spee pointed out a huge component of design downtown relates to the location of the site within the specific BD zone. Although the planner may have ideas, they must simply quote the code, play no part in the design even though a site may be perfectly situated for public open space, have overhead power lines could be undergrounded, or be perfectly situated for a certain use that deserved some concession to make it possible. The City's unbending code language hurts the ability of a designer to take advantage of a site's unique characteristics and prevents a flow of discussion between the developer and the planner which could result in a win-win project. Any development agreement requires public hearings and Council approval, thus eliminating the concern it would get out of control. He encouraged the City Council to approve the Planning Board's recommendations as proposed.

**Don Hall, Edmonds**, retail store owner and member of the EDC, urged the Council to pass the four proposed changes to the BD zone code, envisioning they will lead to better development, economic growth and go a long way toward bringing new business to Edmonds. Development agreements are the key to economic vitalization downtown. A hotel and apartments will add to the number of people that need the goods and services offered by downtown merchants. The use of development agreements would achieve the goal of silver and gold LEED building and require public amenities such as public restrooms, gathering spaces, and public art. He urged the Council to view the code change as a way to kick start the desperately needed economic revitalization downtown.

**John Reed, Edmonds**, Planning Board Member, advised he was out of town when the Planning Board held the public hearing on the proposed modifications to the BD zones, ECDC 16.43. He expressed support for economic development and as a member of the Planning Board, supported recent changes to zoning at Firdale Village which among other things included significant height increases. He also supported the creation of the Edmonds Way Corridor zones and applauded the work of the EDC over the last 18 months. Regarding the proposed changes, he supported eliminating the step-back requirement but encouraged their use as an attractive design feature. He supported the changes to the primary and secondary uses in the BD zones and had recommended the BD1 zone be changed to full retail/restaurant and other commercial uses excluded although the Planning Board did not make that change. He supported changing the commercial depth on designated street fronts to a consistent 45 feet rather than the existing 30 and 60-foot depths. He expressed concern with 16.43.050, development agreements and its interaction with the development agreement section of ECDC 20.08. Section 16.43.050 allows all BD zone provisions except design provisions to be eligible for modification by a developer meeting only two criteria, some of which are loosely defined such as no square footage or percentage requirements and therefore could be minimal.

Mr. Reed relayed ECDC 20.08 has two provisions that may be cause for concern; final plans and drawings are not required, conceptual drawings and general design criteria must be specified. These often change during design development as a project evolves. He questioned whether those changes would be transparent and public knowledge and whether follow-up hearings at the Planning Board and Council would be required. ECDC 20.08 also refers to consistency with the Comprehensive Plan and existing code. He questioned whether the freedom to modify nearly all the major provisions of the BD zone code was consistent with this requirement. The 35-foot maximum height included a maximum of 3-story statement when considered by the Planning Board. That statement has been removed and he echoed the question whether that change was actually approved by the Planning Board. Some sloped lots would qualify for 4 stories which can be built if 35 feet is allowed without a story limitation. He believed 4 stories was 1 too many downtown and asked that the Council revise the statement to either limit development to 30 feet or 3 stories. He relayed his concern that the open ended nature of 16.43.050 may lead to litigation if/when an agreement meeting the basic but loosely defined criteria is denied by the Planning Board and City Council.

**Ron Wambolt, Edmonds**, urged the Council to support the Planning Board's recommendations, envisioning that the ability to use development agreements would stimulate economic development downtown. He pointed out there had been no new development downtown since the BD zoning was implemented in early 2006. Although the economy may be partially to blame, another cause is the rigid BD development standards. The only flexibility currently allowed in the BD zones is via a variance which requires a developer meet six criteria. Although the variance concept is well intended, meeting all six criteria generally prevents the granting of a variance. The development agreement provision will open new opportunity for controlled flexibility; developers will have more flexibility but the flexibility is controlled by the City Council. A development agreement allows for a win-win situation; the developer must give something to get something in return. With regard to the 35-foot maximum height, retaining the existing 30-foot height limit as Councilmember Plunkett suggested would eviscerate the value of a development agreement because although a building can be developed in 30 feet, it would prevent a third floor of apartments and the generation of sales tax and ongoing property taxes from those 17 apartments. As Mr. Spee has previously indicated, the additional floor of apartments would allow him to lower rents by \$200/month. The tenants in his existing apartments in the Spee Building will attest he has not raised rents in ten years. He urged the Council to approve the amendments without delay so that much needed economic development can occur. Economic development is a real need, without economic development and as long as inflation exceeds 1%, annual levy lid lifts will be necessary.

**Joan Bloom, Edmonds**, referred to the Planning Board minutes in which Mr. Chave stated a development agreement is similar to the contract rezone concept that the City no longer uses. She asked why contract rezones are no longer being used by the City, how development agreements are superior to a contract rezone, and whether the flexibility provided by a development agreement would open the City to lawsuits if one developer is granted something for a specific site and another developer does not get what they want.

**Ruth Arista, Edmonds**, advised the extension of the designated street front on 4<sup>th</sup> Avenue to Daley was related to that being part of the Arts Corridor to the Edmonds Center for the Arts. As a business owner in three locations in downtown Edmonds, on the corner of 5<sup>th</sup> & Main, next to that corner on 5<sup>th</sup> Avenue, and currently further south on 5<sup>th</sup> Avenue, she supported the proposed designated street front map. She described a shopper at the corner of 5<sup>th</sup> & Dayton on Saturday where there are two banks and an empty store front turning around and heading back to the intersection of 5<sup>th</sup> & Main. The designated street front proposal is very important to businesses located further down the street. Store fronts with good eye candy keep people walking and going into one store after another. Some offices do a great job decorating their windows, and although the banks provide a terrific service, people are not drawn to a bank. The blue line identifying designated street front stops in the middle of the parcel because a retail business located on the corner of 2<sup>nd</sup> & Bell was unlikely to get much foot traffic. She expressed her support for the proposed changes.

**Rebecca Wolfe, Edmonds**, member of the EDC and the tourism subcommittee, explained whenever the subcommittee thinks of something wonderful for Edmonds, the need for more hotels arises. The proposed project for a boutique hotel on 2<sup>nd</sup> & Main is very exciting. She recalled from their presentation that the elevation between Main and Bell makes development tricky without an increase in the height. She agreed with all the previous speakers who supported the proposed changes.

**Roger Hertrich, Edmonds**, referred to the criteria for a development agreement related to a green building, recalling a grocery store that installed an ugly water tank in an effort to be green. He hoped that would not be allowed in the future to meet the criteria for a green building. He questioned how long a use that allowed a developer to use a development agreement would be required to remain and how that use could be guaranteed long term. Public restrooms are an expensive amenity and likely not practical for a developer to provide. His goal was protecting Edmonds' small town atmosphere and protecting existing



views downtown. He questioned how a green building protected views. With regard to increasing the maximum height, he recommended further consideration such as whether the requirements are appropriate. Only three people spoke at the Planning Board; another public hearing was likely to generate more public participation. He urged the Council not to make a final decision tonight and to consider this the beginning of the discussion.

**Rich Senderoff, Edmonds**, explained as a member of the EDC he supported the recommended changes to the BD zone. There was a great deal of discussion by the EDC regarding service uses in the retail core and the EDC recommended further vetting of service uses. He explained a service is an exchange of money for a product or service such as a hair salon. That definition is consistent with recommendations for the BD1 zone in the Comprehensive Plan. He recalled comments that prohibiting a drive-through would discourage banks from locating in the BD zone. When someone is told they cannot do something, it is easy to get around that; when someone is told what is expected, it is harder to get around. He recommended the “such as” clause in the development agreement amendment needed further specificity. With regard to requiring two of the three criteria for a development agreement to be met, he recommended requiring the use criteria be met and then one of the other criteria. He summarized development agreements were a way for the community and the Council to help shape the downtown area.

**Al Rutledge, Edmonds**, pointed out 2500-3000 additional residents will locate in Edmonds in the future. He recommended including a criteria for the use of a development agreement that relates to a transportation system that will bring people downtown to shop.

Hearing no further comment, Mayor Cooper closed the public participation portion of the public hearing.

Councilmember Bernheim commented he was positive about the changes, but due to the hour and the urgency of the levy discussion, he proposed bringing this matter back for a special workshop. He has questions about raising the height limit to 35 feet and raising the standard height limit to 30 feet but it was unlikely the Council would work through those issues tonight.

**COUNCILMEMBER BERNHEIM MOVED, SECONDED BY COUNCILMEMBER PLUNKETT, TO RESCHEDULE THIS FOR AS SOON AS POSSIBLE. MOTION CARRIED (5-2), COUNCILMEMBER WILSON AND COUNCIL PRESIDENT PETERSON VOTING NO.**

Council President Peterson recalled there was some concern the issues were not discussed by the Mayor’s Climate Protection Committee. He suggested discussing it at their August 4 meeting. In response to comments that this was to be reviewed again by the CS/DS Committee before forwarding it to full Council, he suggested the CS/DS Committee discuss it at their August 9 meeting and this item be scheduled on the August 23 Council agenda.

Councilmember Wilson advised he would relay his questions under Council comments. Mayor Cooper encouraged Councilmembers to submit any questions/comments prior to the August 23 meeting.

#### **4. AUDIENCE COMMENTS**

**Al Rutledge, Edmonds**, referred to an interview of Human Resources Director Debbie Humann in the *Everett Herald*. Next, he reported on the legislative redistricting; the last meeting is in Seattle on August 9. Public hearings will be held in Seattle, Spokane, Vancouver and Olympia after the final decision is made in November. In 2000 a public hearing was not held after the final decision. Further information is available at 360-786-0046. With regard to the levy, he recommended forming a 100-150 member advisory committee. He suggested a levy include funds to purchase Al Dykes’ property and that it developed with a use that was beneficial to citizens.

**Roger Hertrich, Edmonds**, voiced his concern with a levy for roads. He suggested the Council obtain a list of the City's ten worst roads according to Public Works. After viewing those roads, the Council could determine whether they were a big problem. He raised a question at the Finance Committee meeting regarding project cost overruns and questioned whether an answer would be provided or did he need to submit a public disclosure request. He was hopeful that the work done by Councilmembers Buckshnis and Petso to clarify the City's financials will mean a levy is not needed.

**Dave Page, Edmonds**, referred to the *Edmonds Beacon* July 5 headline that stated the Council was getting ready for a \$3.75 million levy. As a member of the original levy committee, he recalled it was thought at that time there would not be enough money to sustain the City and since then the City has been playing "3 Card Monte" with the budget. He commended the Council and staff for keeping the City's head above water. The City needs a levy because it is groveling in poverty. Property tax collections are less than projected and next year will be worse. The citizens are benevolent when they are informed and will pass a levy. He urged the Council to put a levy before the people, establish a group of people who are enthusiastic about supporting the levy and educate the public. Now is the time, the City needs it and it will happen as long as the public is educated.

Councilmember Fraley-Monillas asked whether a Council Committee could amend an item that came before their committee before it came to Council. City Attorney Jeff Taraday answered the committee could; it would be helpful to the Council if both versions of the proposal were provided. Councilmember Fraley-Monillas asked if it would be appropriate to provide a strike-out version of the amendment. Mr. Taraday agreed it would.

## **5. ACTION REGARDING LEVY**

Mayor Cooper suggested Interim Finance Director Jim Tarte present his information followed by Councilmember Bernheim's proposal. He encouraged the Council to listen careful to the information Mr. Tarte provides and try to focus their discussion on the levy versus the 2012 budget or other philosophical questions.

Mayor Cooper explained since Mr. Tarte became the City's Interim Finance Director, the City's financial situation has been scrubbed like no other in his recent memory. While the City's financial picture is not rosy, it is perhaps slightly better than may have been thought a year ago although there still needs to be a discussion regarding new revenues. The information Mr. Tarte will present includes:

- Lower cost of the City Attorney
- Lower WCIA rates in 2012
- Increased cost of pension contributions that take effect on July 1, 2011 and September 2, 2011
- Increased liability on the loan guarantee for the Edmonds Center for the Arts
- Decreased employee healthcare cost in 2012
- Decreased property tax collections due to decreased property values, EMS collections will be substantially lower
- Expenses were reviewed against the 2011 budgeted amount, 2010 actuals and actuals for the first 6 months of 2011

Mayor Cooper advised Mr. Tarte will also comment on revenues and expenses in the out years. He suggested if the discussion/debate about working capital, the beginning and ending cash balances, etc. is removed, at the end of 2012, expenses will exceed revenues by \$347,000. The City is increasingly spending more than it collects, largely because expenses continue to increase but the City is limited in the amount of revenue it collects due to the economy and the 1% cap on property taxes, not because the City

is giving excessive pay raises to its employees. He pointed out of the City's employees received no raise in 2012 and one-third received 1%.

Mr. Tarte commented it is well known and accepted that the City's expenditures exceed its revenue collections beginning in 2012. In 2009 revenues exceeded expenses by \$600,000; the reason was a utility tax increase that year. In 2010 revenues exceeded expenditures due to the sale of the Fire Department. He has reviewed the 2011 revenue and expenditure model line by line and questioned each item by looking at the 2011 budget, the 2010 actual for specific line items, and the first 6 months of 2011 including asking questions of Directors. He was confident the 2011 projected revenues and expenses have been scrubbed, are accurate and do not have a lot of built in additional contingencies. 2011 was then used as a base year to create 2012 and future years. The forecast does not include any loss of liquor revenue via passage of the liquor privatization initiative. He was confident revenues in 2011 will exceed expenses by approximately \$330,000.

In 2012 expenses will exceed revenue by \$347,000 and that amount increases in future years. The reason is the limitation on property tax increases to 1%/year. He projected a flat revenue increase up to a 2.5% increase in sales tax collections and other revenues, which he viewed as a realistic projection. Economists have said the recession is over, this is the new reality and it is unlikely sales tax will increase 2-3%/year.

Mr. Tarte explained he forecasted a 1-2.5% increase in non-labor expenses, a conservative, moderate expense increase. For labor expenses, he used the rates in the recently approved labor contracts. Revenues are forecast to increase slightly more than 1%/year versus expenses that are forecast increase 2-2.5%/year, the reason expenses in excess of revenues increases each year. As Mayor Cooper stated, that has nothing to do with the beginning balance or whether working capital or fund balance is used. He encouraged the Council to focus their discussion on how to get revenues in line with expenses.

Mr. Tarte identified options for addressing expenses in excess of revenues:

1. Propose a levy.
2. Decrease services provided to residents.
3. Utilize the City's current resources via a change from a working capital beginning balance approach to a fund balance approach. In about two years, the City would have only two options.

Councilmember Bernheim pointed out another option is a combination of increased revenue and reduced services.

Mr. Tarte displayed a line graph chart comparing General Fund revenues and expenses 2008-2016, pointing out the City has continued to cut expenses without cutting services as illustrated by the graph and the City's financial statements. In response to an earlier question by Councilmember Bernheim regarding the Edmonds portion of property taxes compared to CPI, Mr. Tarte provided a line graph comparison using 2002 as a base year. He highlighted the increase in the EMS rate in 2009 from \$0.32 to \$0.50 and decrease from 2010 to 2011 due to decrease in assessed value. The graph illustrates the actual Edmonds portion of an average home's property taxes compared to the rate if it kept pace with the Puget Sound CPI index. The CPI mirrors 2003 and 2004 and then begins to grow 2-3% per year, flattens during the recession and increases again in 2008. An average Edmonds resident currently pays approximately \$800 for the Edmonds portion for their property taxes. If that tax had kept pace with the Puget sound CPI, it would be slightly over \$1000, a difference of approximately \$240. He summarized Edmonds residents were paying substantially less in real estate taxes than they were 10 years ago when compared to the Puget Sound CPI.

Mr. Tarte referred to the above three options, noting in approximately two years, only two options will remain. The sooner the Council addresses the issue, the easier it will be to take corrective action rather than reactive action in two years.

At Councilmember Buckshnis' request Mr. Tarte provided a line graph comparing other cities' actual property taxes to their taxes if they kept pace with Puget Sound CPI.

- Woodway – ahead of CPI in early years, behind in 2007, 2008 and 2009 and now exceed CPI. Woodway voters passed a levy in the recent past
- Lynnwood – in a good position 2003-2008, then taxes based on CPI increase more than actual taxes. Actual taxes approximately \$70 behind taxes based on CPI increase
- Mountlake Terrace – actual taxes approximately \$200 lower than taxes based on CPI increase
- Everett – actual taxes approximately \$150 lower than taxes based on CPI increase

Mayor Cooper pointed out one of the reason Mountlake Terrace is not in dire financial straits is because their gambling tax generates a substantial amount of revenue. Councilmember Wilson pointed out Lynnwood also has sales taxes from Alderwood Mall.

Councilmember Petso recalled last week following her Finance Committee report, she was asked to provide a presentation to the Council. It was her impression from Mayor Cooper's earlier comments that perhaps that presentation was not desired. She asked whether the Council wanted to see her presentation. Mayor Cooper encouraged Councilmember Petso to make her presentation, finding it relevant to establishing whether there is a need.

Councilmember Wilson inquired about utility taxes collected by the General Fund and the Utility Fund. Mr. Tarte answered all utility taxes are collected by the General Fund. The Utility Fund only collects funds from purchase of water and storm and water fees. Councilmember Wilson observed utility taxes collected by the General Fund are not restricted by the 1% cap. Mr. Tarte agreed, noting there were significant increases in utility taxes in 2009.

Councilmember Bernheim presented a possible levy proposal, three separate modest, limited levy options:

<b>Cost to Taxpayer</b>			
<b>Average Home: \$375,000</b>			
	<b>Program</b>	<b>Amount/Year/3 Years</b>	<b>Added Tax Increase/year</b>
Prop 1	Street Overlay	\$1 million	\$59
Prop 2	General Fund	\$750,000	\$44
Prop 3	Maintenance/Parks	\$500,000	\$30

Councilmember Bernheim referred to Mr. Tarte's charts that demonstrate expenses have been cut and property taxes have actually not kept pace with inflation. He explained via his levy proposal, voters could decide to pass one, two or all three or none. His proposed levies would sunset after three years.

Councilmember Bernheim agreed with Mr. Hertrich's suggestion that the Council be provided a list of the worst roads in the City. He recognized that a road could begin to fail before it looks like it is failing. The City needs to preserve and maintain rather than repair its roads. He favored driving less and found roads less important than trails to some extent but he was willing to support putting a \$1 million/year levy to the voters. He would not tell the voters how to vote; he preferred to let the voters tell him what type of town they wanted. The Council is not allowed to raise taxes; only the voters can raise taxes in excess of the 1% cap. The voters are part of the budgetary process and excluding them from the budgetary process is a failure of the Council's responsibility.

With regard to Proposition 2, Councilmember Bernheim acknowledged expenditures exceed revenues, if not now, very soon. The City can cut expenses, cut staff, cut services; he preferred to give voters the opportunity to say no to that by adding a modest \$750,000/year to the General Fund at a cost to the average homeowner of \$44/year for 3 years. He recognized the Council had succeeded in protecting the public money in very successful manner. There are future problems but the City is not defaulting on present debts. He suggested his proposed Proposition 3 could help fund urgently needed play equipment and maintain buildings.

Councilmember Bernheim displayed the current Edmonds 2011 property tax bill for an average home of \$375,000:

<b>Tax Entity</b>	<b>Percent</b>	<b>Taxes Paid</b>
Schools	41%	\$1,556.08
State	22%	827.39
City	16%	607.50
EMS	5%	187.50
County	9%	325.64
Library	4%	168.99
Hospital	2%	57.38
Port	1%	39.60
Conservation	0%	2.19
Total	100%	\$3,772.28

Councilmember Bernheim commented on the amounts in his proposed levy compared to a homeowner's total taxes, explaining each property owner must ask themselves what their responsibility is in modern society. Do you get by with the least possible because the least advantaged have great difficulty in affording any tax increases, does everyone accept fewer government services or do voters bite the bullet and agree to increase taxes by a majority vote.

Councilmember Bernheim assured he was not promoting a yes vote; he was promoting a people vote because voters are party of budgetary process and excluding from that process is not living up to the Council responsibility. He summarized his proposal was to take each of these three propositions to the voters separately to allow the voters to determine what is important to them. They are modest increases of limited duration. If the propositions are rejected, it is not a failure, the Council can learn for it. If some or all the proposition pass, the Council has three years to continue to earn the public trust with more believable, credible, accurate and understandable financial statements and a proven record of accomplishments. As Mr. Tarte demonstrated, property taxes compared to the cost of living have gone down. He urged Councilmembers to unite in presenting these options to the voters.

Councilmember Petso explained the following was based on work done by the Finance Committee and additional meetings with Mr. Tarte. The information in her presentation relies on the balance sheet that is provided to the State. The balance sheet does not include the \$1.3 million one-time cash but does include the \$1.9 million reserve.

Councilmember Petso reviewed the following, explaining the cash amount is from the City's financial statement. The fund balance is public sector version of owner's equity on a private sector balance sheet. The City's past practice figure is the amount that would have been included in projections. The italicized numbers are without the \$1.9 million and typically included in projections.

<b>General Fund 12/31/2010</b>	
Cash	\$5.8 million

<i>(less \$1.9 million)</i>	<i>\$3.9 million</i>
Fund Balance	\$6.8 million
<i>(less \$1.9 million)</i>	<i>\$4.9 million</i>
City's past practice	\$4.7 million
<i>(less \$1.9 million)</i>	<i>\$2.8 million</i>

The accounting method that is being contemplated and that is used by a number of other cities is reporting the fund balance number. Rather than reporting \$2.8 million on projections, \$4.9 million would be reported. This change has not yet been made. The Finance Department is talking with other cities to learn more. This demonstrates fairly strong reserves.

The difference between past practice and the \$4.9 million is money owed to the City at year end. The City typically did not count that money as assets. It is received in the first two months of the year. Most of it is utility taxes accrued during November and December and paid in the next 60 days.

<b>Change in Accounting</b>	
Fund Balance	\$6.8 million/ <i>\$4.9 million</i>
City's past practice	\$4.7 million/ <i>\$2.8 million</i>

Councilmember Petso explained in the options Mr. Tarte outlined, the third option is to subsidize operations from existing assets. She did not recommend that as a long term strategy. She may be able to cope with it if it happens accidentally, incidentally or because of unforeseen events. This is an option, not an attractive option and not a long term way to operate the City. Reporting fund balances will improve clarity in financial reporting but reporting fund balance does not resolve the City's projected operating deficit. If expenses exceed revenues, the City faces an operating deficit regardless of how the finances are reported.

<b>1 month reserve: \$2.75 million</b>		
Cash	\$5.8 million	2.1 months
Fund Balance	\$6.8 million	2.5 months
City's past practice	\$4.7 million	1.7 months

Councilmember Buckshnis explained Councilmember Petso and she have discussed with Mr. Tarte moving toward modified accrual standards which is what most cities do and recommended by the Government Finance Officers Association (GFOA). She recommended changing to that methodology due to concerns with the financial integrity of last year's financial statements and to allow citizens to trace numbers. She summarized the City still needed a levy but changing the methodology will improve the integrity of the City's financials.

Mr. Tarte agreed with the amounts provided in Councilmember Petso's presentation. He explained the \$2.8 million in Councilmember Petso's presentation is the 2011 beginning working capital balance in the spreadsheet he provided. Historically the City has taken a very conservative, pure approach to the beginning balance. The \$2.8 million is actual working capital, cash as of 12/31/10 minus expenses that will be paid in the next 20 days. As Councilmember Petso's presentation indicated, that amount does not include what is expected to be collected in January and February 2011. Several other cities use a modified accrual method so that forecasts tie to the financial statements that are reported to the State.

Mr. Tarte referred to the revenue shortfalls in years 2013-2016, pointing out the numbers were much larger than the \$750,000/year General Fund levy proposed by Councilmember Bernheim. If the Council places a \$750,000 General Fund levy on the ballot and the votes approve it, it will require a combination

of that and moving away from the conservative beginning balance approach to the fund balance approach to achieve an ending balance of the one month target.

For illustrative purposes, Mr. Tarte added \$750,000/year for three years (passage of a levy) to the forecast and converted the 2011 beginning balance from a working capital to a fund balance. He noted when the forecast is converted from a cash balance to a fund basis, there also needs to be an adjustment between \$200,000 and \$600,000.

Councilmember Wilson clarified the fund balance amount does not include the \$1.9 million or the 1.3 million; the difference is \$2.2 million account receivables collected in January and February. Mr. Tarte agreed. Councilmember Wilson observed GFOA recommends a 1-2 month reserve balance. The forecast reflects a one month reserve balance. If the methodology is changed to include accounts receivable, it makes a two month reserve balance more relevant. The one month reserve is used because of the way the City accounts for its receivables. Mr. Tarte agreed; if the City moves away from a conservative forecasting model to a fund balance that includes receivables that have yet to be collected, consideration may need to be given to increasing the reserve to 45, 50 or 60 days.

Councilmember Wilson clarified via a fund balance approach, the City is making a budget prediction, assuming it will collect 100% of the accounts receivable. He summarized if the City changes its methodology, it may need to change its assumptions regarding reserves and there is some risk involved with assuming the City will receive 100% of its receivables. Mr. Tarte suggested the Mayor may want to increase the reserve from 30 days to 45 days to mitigate that risk.

As an example, Councilmember Wilson recalled when the Council approved the EMS transport fee, it was projected to generate \$1.5 million/year. The City actually receives approximately \$750,000. The City may collect \$1.2 million/year over the course of 4 years but will never receive \$1.4 million in 1 year. Using that one example, that's a \$700,000-\$800,000 consideration for budgeting.

Councilmember Buckshnis advised the Finance Committee plans to discuss the reserve at their August meeting.

Mayor Cooper commented although the forecasting information is important for the 2012 budget, during that budget process the Council will have an opportunity to establish the reserve amount. He reminded that none of that changes the fact that expenses exceed revenues.

Mr. Tarte described the impact on the shortfall of adding \$750,000/year from a levy. He pointed out a \$750,000 levy does not completely cover the shortfall. To completely cover it would require a General Fund levy of \$1.5 million/year. If the Council wants to continue the conservative forecast and if they want revenues to equal expenses, the General Fund levy amount needs to be \$1.5 million/year for more than 3 years. If the City changes to a fund balance approach, there is still the \$1.9 million Act of God reserve and the \$1.3 million reserve. A \$750,000 General Fund levy solves about half the problem.

Council President Peterson was glad the numbers are clearer for those Councilmembers who have concerns and that Mr. Tarte has provided a fresh set of eyes. He echoed Councilmember Bernheim's earlier comment that the decision is ultimately the voters. He anticipated the Council may agree on a multiple item ballot. He reiterated his concern with multiple ballot items but was willing to make that compromise as long as there was a ballot item for the General Fund. He suggested the Council avoid philosophical discussions and focus on the facts.

**COUNCILMEMBER BERNHEIM MOVED, SECONDED BY COUNCIL PRESIDENT PETERSON, TO DIRECT STAFF TO RETURN NEXT WEEK WITH ORDINANCES FOR THE THREE BALLOT MEASURES HE PROPOSED, \$1 MILLION FOR STREET OVERLAY,**

**\$750,000 FOR THE GENERAL FUND, AND \$500,000 FOR MAINTENANCE/PARKS FOR A 3 YEAR DURATION.**

Mr. Taraday advised the drafts in the Council packet assume a 3-year duration and will go away and revert back to current level after three years. The net effect of the ordinances in the packet is exactly what Mr. Tarte added to his spreadsheet. The Council has the option of placing a permanent levy on the ballot which would then become the new baseline for the 1% increases. Otherwise there will be three years of additional funds and then back to the current level.

Councilmember Petso observed the levy for roads is not specifically limited to preservation paving. She asked whether it was Councilmember Bernheim's intent to allow the levy to fund maintenance and salaries or that the roads levy be dedicated to preservation paving. Councilmember Bernheim responded his intent was to put every dollar into asphalt. Mayor Cooper advised Public Works Director Phil Williams raised that issue and Mr. Taraday will revise the ordinance to read overlays.

Councilmember Petso inquired about Councilmember Bernheim's intent with regard to an escalator, relaying the ordinance proposes increasing the levy rate in 2013 and 2014. It was also her understanding that by including an escalator, the levy becomes permanent. Councilmember Bernheim responded he did not intend to have an escalator. His intent is the same amount each year and when it is over, it's over. In the meantime the Council has the time to consider other revenue sources. He did not support a permanent General Fund levy to balance the budget into 2020. He supported a temporary levy, not because the City has a temporary problem, but to provide time to build voters' confidence and prove the money is being well spent. Mr. Taraday explained it is not technically an escalator. Another option the Council has is a multiple bump lid lift. The current proposal is a single bump lid lift and that is reflected in the ordinances in the Council packet. A multiple bump lid lift includes another lid lift in 2013. He referred to the language, "shall be used for the purpose of computing the limitations for subsequent levies in 2013 and 2014." That language allows the City to bump up in 2012 and get the 1% in 2013 and in 2014. Councilmember Bernheim agreed with that language.

Councilmember Plunkett advised he would not support the motion because of the General Fund levy. The General Fund contains a 10% per year increase, wages and benefits; there is no end in sight to these increases; and he cannot in good conscience ask the taxpayers to subsidize the General Fund when 54% of the General Fund has not yet been addressed. He would support the capital improvement levies.

Mayor Cooper reminded the motion is to have staff return with three separate ordinances. The Council will then have the ability to vote on each ordinance.

Council President Peterson suggested even if Councilmembers are willing to support the motion, they express their reservations regarding specific levies now.

**COUNCIL PRESIDENT PETERSON MOVED, SECONDED BY COUNCILMEMBER WILSON, TO AMEND THE MOTION TO ADD \$250,000 TO THE GENERAL FUND LEVY TO INCREASE IT TO \$1 MILLION.**

Council President Peterson was very uncomfortable with a 3-year General Fund levy but he did not think the Council would support a permanent General Fund levy nor was he certain the voters would approve it. Based on the information Mr. Tarte presented, \$750,000 does not provide enough breathing room to gain the voters' confidence because the City would be doomed in another 1½ years.

Councilmember Petso advised with the amended General Fund amount and the other two levies, the increase in the Edmonds portion the average home's taxes is 18%. She preferred a smaller number for roads and to keep the levy under \$50-\$100/year. She anticipated voters would approve \$50/year for roads,



a total amount of \$750,000/year. She noted the acceptable amount for a levy would be different for each voter; some may be supportive of a levy regardless of the amount. Due to her interest in a reasonable ask, she will likely vote against the amendment.

Councilmember Wilson expressed his appreciation to Councilmember Bernheim for his levy proposal. He will not support a \$750,000 General Fund levy because it does not solve the basic budget challenge. If the City collects \$750,000/year or \$2.25 million over 3 years, the City is still \$750,000 short of the funds needed to maintain existing services. Those existing services do not include the police officer that was cut, and do not restore the DARE program, parks maintenance cuts, or other cuts that reduced the City's budget 3½ years ago. With a \$1 million General Fund levy, the City can hold the line but at the end of 3 years, expenses will exceed revenues by \$2.25 million in year 2 and \$2.9 million in year 2. The Council would then need to go to the voters for a \$2.5 million annual levy just to get through those next 2 years, 3 times as large as \$750,000. He anticipated that would be a very difficult levy to pass. He wanted to propose a levy that solved the problem; \$750,000 does not accomplish that and \$1 million barely does. He expressed support for the amendment.

Councilmember Fraley-Monillas expressed support for the amendment because it will ultimately cost only an additional \$15/year. She wished a levy had been approved a couple years ago because it would have improved the City's future. She did not anticipate this Council or a Council in the near future would have the ability to fix Edmonds. It is an unrealistic vision because in this economy the voters cannot be asked to increase their property taxes by \$300/year to meet the deficit. She was not confident voters would approve even an increase of \$200/year. She suggested getting through this period and then taking a closer look at reducing spending, selling assets, and way of doing business differently. She recognized the City did not have many places where future cuts could be made and without a General Fund levy, drastic steps will be necessary in the future.

Councilmember Buckshnis did not support the amendment because there are too many variables that have not yet been discussed such as self-insurance, the strategic plan, sports tourism, and a boutique hotel and the numbers needed to be scrubbed further. She noted Lynnwood is also interested in self-insurance. She wanted a levy to be placed on the ballot that would pass. She was supportive of individual ballot measures which allow voters to be part of the budget process.

Council President Peterson agreed there were several things on the horizon but this is a 3-year levy. Sport tourism is increasing; there was a great petanque tournament recently. Sports tourism will not generate the amount of money the City needs within the next three years. The infrastructure necessary for sports tourism is at least a 10 year project. The other things Councilmember Buckshnis cited are excellent ideas but they are in the future. Although he was uncomfortable with the three year duration, he will support it to allow time to work on other things that may turn the ship around. This is a short-term band-aid and he wanted to ensure the band-aid stopped most of the bleeding for a couple years.

Councilmember Bernheim suggested even though Councilmembers may have sharp disagreements on amendments, that does not mean they are a divided Council. It means they are united Council in solving the budget problem.

**UPON ROLL CALL, AMENDMENT CARRIED (4-3), COUNCIL PRESIDENT PETERSON AND COUNCILMEMBERS WILSON, FRALEY-MONILLAS AND BERNHEIM VOTING YES; AND COUNCILMEMBERS PETSO, PLUNKETT AND BUCKSHNIS VOTING NO.**

Councilmember Wilson commented he still had real concerns over the viability of the levies when split into separate ballot measures. He has followed politics for over 15 years and 200 campaigns and has never seen a city anywhere pass three measures on the ballot nor had he seen a city put three on the ballot

and pass one of them. He feared voting in favor of the motion was entirely futile. He asked whether a permanent levy required 60% voter approval. Mr. Taraday answered no.

Councilmember Wilson asked Councilmember Bernheim why he did not propose a permanent levy. He understands the palatability of a sunset clause but it will require the Council to ask for a levy three times that size in the future. Councilmember Bernheim responded it was a tradeoff. He personally would vote for a permanent levy that raised taxes more than proposed. He has the money and he likes to live in a community that has a great deal of social services. The City has few extras and most of the things that are funded are expensive such as installing new water pipes, preserving the shoreline, unexpected road washouts, etc. Ideally voters pass the levies, the money begins to be spent, and public confidence is gained and before the last minute the Council places a more responsible proposal on the ballot in 1½ years. With the passage of the 1% cap on property taxes, government must ask for money from voters. The Council needs to reach out to voters who doubt this process, who think they can protect their own houses from fire, who do not call the police, or who do not think they need roads.

Councilmember Wilson commented Councilmember Bernheim's comments solidify his opinion against the three ballot measures. He compared placing the levy on the ballot to get feedback to asking the voters where they wanted to raise the debt ceiling; 60% of voters do not want to raise the debt ceiling. That would be a fundamental failure of the U.S. Congress if it were put to a vote. If the Council knows that a \$1 million General Fund levy will not get the City out of the hole it is a fundamental failure to place it on the ballot. If the purpose of passing these three ballot measures is to then ask the voters again next year for money, there is no chance of passing 4 levies in the course of 12-18 months. The strategy of asking small so the Council can ask again is flawed. He provided the analogy if someone asked him for \$100 he might give it to them, but if they asked 20 times for \$5 there was no way he would give them \$100 because he would get tired of being asked. He felt it was incumbent on the Council to make the case for a General Fund levy that would get the City out of the hole.

**COUNCILMEMBER FRALEY-MONILLAS MOVED, SECONDED BY COUNCILMEMBER BUCKSHNIS, TO EXTEND THE MEETING FOR 30 MINUTES. MOTION CARRIED UNANIMOUSLY.**

Councilmember Fraley-Monillas asked about the survey response regarding individual levies. Mayor Cooper explained in the scientific survey, a large majority of respondents preferred separate levies but a smaller majority indicated they would vote for his \$2.25 million proposed levy. Councilmember Fraley-Monillas asked whether the survey inquired about a levy amount they would support. Mayor Cooper explained the City must be careful during polling not to breach public disclosure rules and therefore could not ask whether they would support a specific levy amount. The poll asked general questions about his \$2.25 million levy proposal and 52% said they would support that proposal which included parks, police and streets.

Councilmember Fraley-Monillas advised she would not support a permanent levy. She support a 3-year levy and if it passes, the Council has 2½ - 3 years to figure out what to do with regard to assets, spending and the future of the City.

Mayor Cooper commented his proposed levy was for 4 years. He recalled in the survey respondents were more interested in a temporary 4-year levy than a permanent levy.

Mr. Taraday explained the Council has the option to limit the General Fund levy to a subset of General Fund expenses. For example, Shoreline's levy while not technically called a General Fund levy had essentially the same effect as a General Fund levy. Their ballot title read, "Shoreline City Council adopted Resolution 307 concerning basic public safety, parks and recreation and community services. If approved, this proposition would maintain current police emergency protection including neighborhood patrols and

crime prevention, preserve safe parks, trails, playgrounds, playfields and the Shoreline Pool and maintain community services including the senior center and youth programs.” He clarified the drawback of that ballot title is it limits the use of the funds; funds cannot be used for anything that is not included in the ballot title. The benefit is it gives the voters a better understanding of how the funds will be used and essentially commits to the voters that the funds will only be used for those purposes outlined in the ballot title.

Mr. Taraday invited the Council to provide direction regarding the ballot title; as drafted the ordinance allows unrestricted General Fund use. Councilmember Fraley-Monillas answered her assumption was the General Fund levy would be to maintain existing services not to add services or staff. Mr. Taraday explained numerous things are funded by the General Fund. The Council has the option of restricting the funds collected from the levy to only certain things. When that is done, it is not technically a General Fund levy; it is for the uses stated. The net effect is the same because General Fund dollars pay for all those services.

Mayor Cooper pointed out the Shoreline ballot title essentially covered everything that is funded by the General Fund but identifies priorities. Mr. Taraday pointed out it is more than prioritizing, it legally limits the use of the funds. For example, Shoreline’s ballot title does not include their Planning Department; Shoreline could not use proceeds from the levy to pay staff in the Planning Department. He clarified the Council did not have to limit the funds to certain items but now was the time to provide that direction if any limitation was desired.

Councilmember Buckshnis preferred to target the funds to police and parks rather than simply the General Fund.

Councilmember Bernheim commented he was not interested in playing footsie with the voters. The money the General Fund levy generates will be used to pay salaries and benefits. He agreed wording other than any government purpose as the current ordinance states would be preferable such as maintenance and support of the General Fund in order to continue to provide services and pay the City’s bills.

Councilmember Fraley-Monillas asked whether the ballot title could be more vague. Mr. Taraday the ballot title could state unrestricted General Fund usage which is more or less what the current draft states. The ballot title could be similar to what Councilmember Bernheim said, maintain and support general services of the City. That has legally the same effect but presents it in a different manner. Councilmember Fraley-Monillas did not want funds generated by a \$1 million General Fund used to add staff or programs; she wanted it used to maintain existing services.

Mayor Cooper commented an additional \$1 million General Fund levy will only pay for existing services and prevent cuts. He suggested Mr. Taraday and he develop language for Council consideration such as the funds will be used for existing government services. The Council has an opportunity to amend the ballot title next week when they consider the ordinances.

**MAIN MOTION AS AMENDED CARRIED (5-2), COUNCILMEMBERS WILSON AND PLUNKETT VOTING NO.**

Mayor Cooper clarified next week the Council will consider ballot titles and ordinances. City Clerk Sandy Chase advised the Council will also need to begin the announcement process for the pro and con committees next week which must be submitted to the Snohomish County Auditor by August 16. Explanatory statements also need to be prepared for each ballot measure. In the past the Council President has made appointments to the committees.

## **6. COUNCIL REPORTS ON OUTSIDE COMMITTEE/BOARD MEETINGS**

Councilmember Buckshnis reported the Economic Development Commission (EDC) discussed the amendments to the BD zones and efforts related to fiber optics that will generate additional revenue for the City. The EDC also had an in-depth discussion regarding sports tourism including meetings held with the Edmonds School District, sports companies, and Snohomish County Hospital District who has funds to distribute for partnerships.

Councilmember Buckshnis reported the Edmonds Marsh restoration has been approved by the WIRA 8 Steering Committee and grant funds are being sought.

Councilmember Wilson reported SNOCOM has been very active though not often reported on due to the technical nature. SNOCOM has had tremendous structural challenges in the past 5-6 years and a cultural transformation is occurring that strengthens public safety in South Snohomish County. Public safety is being strengthened to such an extent that cities such as Bothell are asking to become members. SNOCOM's model of governance is being used by other call centers such as SNOPAC, the North Snohomish County 911 call center. He acknowledged this has not been without challenges including a public employee relations commission action filed by the union against Edmonds and other SNOCOM members during the past which was found to be without merit. Throughout that process, SNOCOM has effectively had a 0% growth in their overall budget.

Councilmember Fraley-Monillas reported on a Snohomish County Cities dinner and meeting that included a discussion regarding how to keep Boeing in Snohomish County to continue supporting cities and the workforce.

Councilmember Plunkett advised CIO Carl Nelson will be providing the Council a CTAC report soon.

Councilmember Petso reported the Public Facilities District Board (PFD) endorsed a new PFD Board Member who the Council approved on tonight's Consent Agenda, replacing Maria Montalvo. The PFD Board imposed term limits and changed the practice of members serving on both the PFD Board and ECA Board. They will now function as two separate boards with no members in common and will communicate with each other via the Steering Committee.

## **7. MAYOR'S COMMENTS**

Mayor Cooper reported on Regional Fire Authority Communications subcommittee meeting. He encouraged the public to visit the website, RFA-planning.org. A monthly briefing will be issued regarding the planning process. He recognized FD1 and FD7 for lending the staff time of their PIOs Leslie Hines, FD1, and Autumn Waite, FD7, to the communications committee to better educate the public.

Mayor Cooper reported tonight's Edmonds Night Out was a great success and the Edmonds Police Foundation did a great job. He thanked Councilmember Fraley-Monillas and Council President Peterson who attended.

Mayor Cooper reported during the summer he often receives emails and phone calls about the City not emptying garbage cans downtown, specifically the garbage can on 5<sup>th</sup> & Dayton. He explained there are two kinds of garbage cans downtown, some are City owned and others are owned by Community Transit. He assured Parks maintenance employees empty the city-owned garbage cans downtown three times a week (Monday, Wednesday and Friday). The garbage can that is a problem is owned by Community Transit. Park Maintenance Manager Rich Lindsay has reminded Community Transit to empty their garbage cans. After a busy weekend the garbage cans downtown are overflowing and Community Transit only empties their cans once a week. Without doing Community Transit's job, staff will clean up trash on

the street to maintain the City's image. Mr. Lindsay and he are imploring Community Transit to uphold their responsibility and keep their garbage cans emptied.

## **8. COUNCIL COMMENTS**

Councilmember Fraley-Monillas reported Edmonds Night Out was a great deal of fun. She thanked the Police Foundation and businesses for their support particularly QFC who provided the food.

### **COUNCILMEMBER PLUNKETT MOVED, SECONDED BY COUNCILMEMBER BUCKSHNIS, TO EXTEND THE MEETING FOR 10 MINUTES. MOTION CARRIED UNANIMOUSLY.**

Councilmember Plunkett expressed concern the Planning Board minutes did not reflect a vote on an amendment to strike the 3-story limit in the BD1 zone. He planned to email Planning Manager Rob Chave to request he research the matter. He may also request a copy of the meeting recording after contacting Mr. Chave.

Councilmember Petso referred to questions asked by the public regarding development agreements such as why a development agreement is not a rezone, how it replaced the contract rezone, how fairness is ensured and what standards can be established to evaluate development agreements. Prior to returning the amendments to the BD zones to the Council, she requested City Attorney Jeff Taraday prepare the legal background on development agreements, the standards, why it is not considered a rezone and responses to other questions asked tonight.

To Mr. Hertrich who asked questions at the Finance Committee meeting regarding cost overruns, Councilmember Petso advised she relayed his questions to Interim Finance Director Jim Tarte and will confirm with Mr. Taraday what can be disclosed regarding the cost overruns.

Councilmember Buckshnis requested Councilmember Plunkett share with her the answer he receives from Mr. Chave regarding the missing vote in the Planning Board minutes.

Councilmember Buckshnis referred to misinformation that as part of the labor negotiations the City gave up 100% of insurance savings which costs the City about \$30,000/month. That is incorrect; Teamsters have 75% and SEIU has 100% and the City is saving \$43,311/month and \$32,483/month.

Councilmember Bernheim referred to a blog entry made during last week's Council meeting, "I am arguing at Council for at least one child-friendly element in our new park at Milltown. Bernheim says "kids are as important as bike racks." Monillas says "more seniors" so kids aren't important. Jerks." Councilmember Bernheim relayed comments made during the senior center walk today that there should be less bickering on the City Council. He explained it is not possible for the Council to conduct business while a Councilmember on his campaign website is calling other Councilmembers jerks. He was not opposed to Councilmembers being on their campaign website during Council meetings but he was opposed to this type of language in public.

Council President Peterson thanked Public Works Director Phil Williams and the staff of the treatment plant for the tour they provided him today. It is amazing what the City is able to accomplish with regard to energy savings and state of the art sewage treatment. He congratulated Dick Van Hollenbeke who was part of the winning team at the inaugural Edmonds Petanque Tournament last weekend.

## **9. ADJOURN**

With no further business, the Council meeting was adjourned at 10:37 p.m.